

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

OP(C).No. 1365 of 2015 (O)

IA.NO.624/2015 IN OS.NO.25/2013 OF MUNSIF-MAGISTRATE'S COURT, PATTAMBI

PETITIONER(S):

**KUNHILAKSHMI, AGED 66 YEARS,
W/O.LATE KARIPPU, KATTUNGAL HOUSE,
P.O.KOOTTANAD, NAGALASSERY AMSOM, NANDIYANKODE DESOM
OTTAPALAM TALUK, PALAKKAD DISTRICT.**

**BY ADVS.SRI.SANTHEEP ANKARATH
SRI.ARUN MATHEW VADAKKAN**

RESPONDENT(S):

**SAHEER,
AGED 53 YEARS, S/O.LATE KAMMUKUTTY,
PARAYILVALAPPIL HOUSE, PATTITHARA P.O, ALOOR,
OTTAPALAM TALUK, PALAKKAD DISTRICT, .PIN 679 534.**

**BY ADVS. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 01-09-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF WRITTEN STATEMENT DATED 5.9.13 FILED BY THE RESPONDENT HEREIN IN OS 25/2013 BEFORE THE MUNSIF MAGISTRATE COURT, PATTAMBI.**
- EXHIBIT P2. COPY OF THE REPORT AND ROUGH SKETCH OF THE COMMISSIONER AND DATED 25.2.13 IN IA 166/13 IN OS 25/13 ON THE FILE OF THE MUNSIF MAGISTRATES COURT, PATTAMBI.**
- EXHIBIT P3. COPY OF THE REPORT AND ROUGH SKETCH OF THE COMMISSIONER AND DATED 25.6.13 IN IA NO.219/13 IN OS 25/13 ON THE FILE OF THE MUNSIF MAGISTRATES COURT, PATTAMBI.**
- EXHIBIT P4. COPY OF IA 624/15 AND DATED 9.6.15 SUBMITTED BY THE PETITIONER IN OS 25/13 BEFORE THE MUNSIF MAGISTRATE COURT, PATTAMBI.**
- EXHIBIT P5. COPY OF ORDER DATED 10.6.15 IN OA 624/15 IN OS 25/13 PASSED BY MUNSIF MAGISTRATE COURT, PATTAMBI.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

O.P.(C)No.1365 of 2015

Dated this the 1st day of September, 2015.

J U D G M E N T

The petitioner, impugning an order passed in an application to remit Commissioner's report, has approached this Court. The application has been dismissed. The main reason stated in the impugned order is that the application was filed when the case was listed.

2. I have gone through the application for remitting the Commissioner's report. Though it is belated, nevertheless this Court is of the view that considering the nature of application, the Commission report has to be remitted. However, the delay involved has to be remedied by imposing cost on the petitioner.

3. In view of the above, the impugned order is set aside on condition the petitioner shall pay a cost of

Rs.2,000/- (Rupees two thousand only) to the respondent.

The cost shall be paid to the learned counsel appearing for the respondent before this Court within 2 weeks from today.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

ami/

//True copy//

P.A.to Judge